

CHAPTER 17- DEVELOPMENT FEES CODE¹

DEVELOPMENT FEES

Article 17-1	Definitions
Article 17-2	Purpose and Intent
Article 17-3	General Provisions; Applicability
Article 17-4	Procedures for Imposition, Calculation and Collection of Development Fees
Article 17-5	General Government Development Fee
Article 17-6	Library Development Fee
Article 17-7	Parks and Recreation Development Fee
Article 17-8	Public Safety Development Fee
Article 17-9	Transportation Development Fee
Article 17-10	Conflict
Article 17-11	Severability

Article 17-1 Definitions

The words or phrases used herein shall have the meaning attributed or prescribed to them in the current Maricopa City Code except as may otherwise be indicated herein:

A. "Applicant" means any person who files an application with the City for a building permit.

B. "Appropriation" or "to appropriate" means an action by the City to identify specific Public Facilities for which Development Fee funds may be utilized. Appropriation shall include, but shall not necessarily be limited to: inclusion of a Public Facility in the adopted City budget or capital improvements program; execution of a contract or other legal encumbrance for construction of a Public Facility using Development Fee funds in whole or in part; and/or actual expenditure of Development Fee funds through payments made from a Development Fee account.

C. "Development Fee" means a fee adopted pursuant to A.R.S. §9-463.05 which is imposed on New Development on a pro rata basis in connection with and as a condition of the issuance of a building permit and which is calculated to defray all or a portion of the costs of the Public Facilities required to accommodate New Development at City-designated level of service (LOS) standards and which reasonably benefits the New Development.

D. "Dwelling Unit" means a room or group of rooms within a building containing cooking accommodations and designed to be used for living purposes. Each apartment unit, mobile home or mobile home space, travel trailer or travel trailer space shall be considered a Dwelling Unit. Dwelling Unit shall not include those units designed primarily for transient occupant purposes, nor shall they include rooms in hospitals or nursing homes.

DEVELOPMENT FEES CODE

1. "Single-family Detached Dwelling Unit" means a Dwelling Unit designed and used only by one family and which unit is physically separated from any other Dwelling Unit.

2. "All Other Dwelling Units" means a Dwelling Unit typically designed and used only for a single family, but which is either attached to another Dwelling Unit, such as an apartment, duplex, townhouse or single-family attached Dwelling Unit, or which is a mobile home, mobile home space, travel trailer or travel trailer spaces.

E. "General Government Development Fee" means a fee imposed on all new residential and non-residential development to fund the proportionate share of the costs of providing general governmental services, including but not limited to municipal office space and major capital equipment.

F. "Library Development Fee" means a fee imposed only on new residential development to fund the proportionate share of the costs of library buildings, collections and facilities.

G. "Multiple Uses" means a New Development consisting of both residential and non-residential uses, or one (1) or more different types of non-residential use, on the same site or part of the same New Development.

H. "Municipal Planning Area" means an area outside of the present Maricopa City limits, but in which the City may provide Public Facilities and Services.

I. "New Development" means, subject to the exceptions set forth in Section 17-3(C)(2), any new construction, reconstruction, redevelopment, rehabilitation, structural alteration, structural enlargement, structural extension, or new use which requires a building permit, or any change in use of an existing non-residential building, structure or lot requiring any form of City building permit or approval.

J. "Parks and Recreation Development Fee" means a fee imposed only on new residential development to fund its proportionate share of the costs of parkland, park improvements, recreation facilities and support buildings and vehicles.

K. "Public Safety Development Fee" means a fee imposed on all new residential and non-residential development to fund its proportionate share of the costs of public safety buildings and facilities, communication systems, vehicles and major capital equipment.

L. "Public Facility or Service" means public improvements, facilities or services necessitated by New Development, including, but not limited to, transportation, police facilities, community facilities, municipal facilities, recreational facilities, open space, parks, and utilities.

M. "Public Facility Expenditures" means an appropriation or expenditure of public funds incurred in connection with the provision of a Public Facility or Service, including but not limited to:

DEVELOPMENT FEES CODE

1. Amounts appropriated in connection with the planning, design, engineering and construction of Public Facilities, which expenditures include, but are not limited to:
2. Planning, legal, appraisal, financing, development, and other costs related to the acquisition of, or use rights on, land;
3. The costs of compliance with bidding procedures and applicable administrative and legal requirements; and
4. All other costs necessarily incident to provision of the Public Facility.

N. "Transportation Development Fee" means a fee imposed on all new residential and non-residential development to fund the proportionate share of the costs of transportation improvements and new roads designed to solve congestion-related problems that are anticipated from increased traffic demands resulting from New Development, and including improvements to minor arterials and/or collectors needed for access and traffic mobility, but excluding project-specific traffic and transportation improvements such as turn lanes, individual traffic signals for the benefit of a specific development project.

Article 17-2 Purpose and Intent

The purposes and intent of the City's Development Fees Code and procedures are:

- A. To establish uniform procedures for the imposition, calculation, collection, expenditure and administration of any Development Fees imposed on New Development;
- B. To implement the goals, objectives and policies of the City of Maricopa to assure that New Development contributes its fair share towards the costs of providing Public Facilities or Services reasonably necessitated by such New Development;
- C. To ensure that New Development obtains a reasonable benefit by the Public Facilities or Services provided with the proceeds of Development Fees;
- D. To ensure that all applicable and appropriate legal standards and criteria relating to the imposition of Development Fees are properly incorporated into the City Code;
- E. To ensure that all applicable procedural requirements of A.R.S. § 9-463.05, as amended from time to time, have been met.

Article 17-3 General Provisions, Applicability

A. Term. This Development Fees Code, the Ordinance enacting the same, and the procedures established herein shall remain in effect unless and until repealed, amended or modified by the Mayor and Council in accordance with applicable State law, City Code, or City Ordinances and Resolutions.

DEVELOPMENT FEES CODE

B. Annual Review and Report.

1. Within ninety (90) days following the end of the fiscal year, the City Manager or his or her designee shall coordinate the preparation and submission of an Annual Report to the Mayor and Council on the subject of Development Fees enacted pursuant to this Development Fees Code.

2. The Annual Report shall set forth the following information:

a. The number of building permits issued by type of residential or non-residential development;

b. The square footage (gross floor area) of non-residential development, by type;

c. The total amount of Development Fees assessed and collected by the City for each type of Development Fee;

d. The balance of each fund maintained for each type of Development Fee assessed as of the beginning and end of the fiscal year;

e. The amount of interest or other earnings on the monies in each Development Fee fund as of the end of the fiscal year;

f. The amount of expenditures made from the Development Fee account or sub-accounts and the purpose for which the expenditure was made, i.e., the description, type and location of the Public Facility project;

g. The amount of Development Fee monies used to repay: (a) Bonds issued by the City to pay the cost of a capital improvement project that is the subject of a Development Fee assessment; (b) Monies advanced by the City from funds other than Development Fee funds to pay the cost of a capital improvement project that is the subject of a Development Fee assessment;

h. The amount of Development Fee monies spent for each purpose other than a capital improvement project that is the subject of a Development Fee assessment;

i. When each Public Facility project was initiated and when it was (or will be) completed;

DEVELOPMENT FEES CODE

- j. Whether additional Development Fee funds will be appropriated for the same project(s) in the future;
- k. Whether supplemental non-Development Fee funds have been used for the project(s) and, if so, how much;
- l. The total estimated cost of the project(s) and the portion funded with Development Fees;
- m. Whether each Public Facility project is in the City's current annual budget or capital improvements program;
- n. The estimated useful life of each project;
- o. The extent to which each Public Facility project is needed to serve new/projected growth; and
- p. The extent to which the Public Facility project is needed to maintain the existing level of service (LOS) standard.

3. In addition to the matters set forth in Paragraph (B)2 of this Section, the Annual Report may include any or all of the following as appropriate:

- a. Recommendations for amendments, if appropriate, to these procedures or to specific Ordinances or City Code sections adopting Development Fees for particular Public Facilities or Services;
- b. Proposed changes to the City of Maricopa General Plan, as adopted and then amended from time to time, or plan elements and/or an applicable Capital Improvements Program, including the identification of additional Public Facility projects anticipated to be funded wholly or partially with Development Fees;
- c. Proposed changes to Development Fee schedules as set forth in the City Code sections or Ordinances imposing and setting Development Fees for particular Public Facilities;
- d. Proposed changes to level of service standards for particular Public Facilities;
- e. Proposed changes to any Development Fee calculation methodology;
- f. Proposed changes to the population, housing, land use, persons per household or non-residential development projections included in the

DEVELOPMENT FEES CODE

Development Fee Report and upon which the Development Fee amounts have been determined;

g. Other data, analysis or recommendations as the City Manager or appropriate designee may deem appropriate, or as may be requested by the Mayor and Council.

4. Submission of Development Fee Annual Report and Council Action. The City Manager or appropriate designee shall submit the Development Fee Annual Report to the Mayor and Council, which shall receive the Annual Report and which may take such actions as it deems appropriate, including, but not limited to, requesting additional data or analyses and holding public workshops and/or public hearings. Copies of the Annual Report shall be made available to the public on request. The Annual Report may contain financial information that has not been audited.

5. If the City fails to file an Annual Report in compliance with A.R.S. §9-463.05(D), the City shall not collect Development Fees until the Annual Report is filed.

C. New Development Affected. This Development Fees Code shall apply to all New Development as herein defined and as defined in the Development Fee Code or other city Code sections for particular Public Facilities or Services.

1. Municipal Planning Areas. Development Fees imposed by the City may, if necessary and appropriate, be collected by other municipalities or by the County on New Development within the City's Municipal Planning Area, but outside of the Maricopa City limits, pursuant to an intergovernmental agreement which provides that the Development Fees collected be transferred to the appropriate City fund for expenditure in accordance with the terms of this Development Fees Code.

2. Exceptions to the application of Development Fees to New Development. Unless otherwise expressly noted, the fees imposed in this Development Fees Code shall not apply in the following circumstances:

a. Previously-Issued Building Permits. No Development Fee shall be imposed on New Development for which a building permit has been issued prior to the effective date of this Development Fees Code.

b. Previous Payment of Development Fees. Subject to the requirements of Subsection 17-4(D) of this Article, no Development Fees for a particular Public Facility shall be due at a later stage of the development permit or approval process if Development Fees have been fully paid for such category of Public Facilities at an earlier stage in the development permit or approval process.

DEVELOPMENT FEES CODE

c. No Net Increase in Dwelling Units. No Development Fee shall be imposed on any new residential development which does not add a new Dwelling Unit.

d. No Net Increase in Non-Residential Square Footage. No Development Fee shall be imposed on any new non-residential development which does not add square footage to a currently existing facility, unless the new non-residential development will increase the demand for Public Facilities for which Development Fees are being imposed.

e. Other Uses. No Development Fee shall be imposed on a use, development, project, structure, building, fence, sign or other activity, whether or not a building permit is required, which does not result in an increase in the demand for Public Facilities.

f. Development Subject to Development Agreements. No Development Fee shall be imposed upon development projects which are the subject of a Development Agreement approved and executed by the City containing provisions in express conflict with this Article, but only to the extent of the conflict or inconsistency.

g. Other Development Exempted by State Law. No Development Fee shall be imposed on New Development which is exempted by Arizona State laws, however, the City may seek to negotiate the construction of Public Facilities or the provision of services, or to negotiate the payment of Development Fees with such entities. See A.R.S. §9-500(18).

3. Effect of Payment of Development Fees on Other Applicable City Land, Use, Zoning, Platting, Subdivision or Development Regulations.

a. The payment of Development Fees shall not entitle the Applicant to a building permit, which shall only be issued if all other applicable land use, zoning, planning, platting, subdivision or other related requirements, standards and conditions have been met. Such other requirements, standards and conditions are independent of the requirement for payment of a Development Fee.

b. Neither this Ordinance nor the specific Development Fee Ordinances or Code sections for particular Public Facilities shall affect, in any manner, the permissible use of property, density/intensity of development, design and improvement standards or other applicable standards or requirements of the City land development regulations, which shall be operative and remain in full force and effect without limitation.

4. Amendments. This Development Fees Code, and any Ordinance or City Code Section adopting Development Fees for any particular Public Facility pursuant to this Development Fees Code, may be amended from time to time by the Mayor and Council; provided, however, that

DEVELOPMENT FEES CODE

no such amendment shall be adopted without a written report detailing the reasons and need for the Development Fee revision nor without proper notice and public hearing as set forth herein and in A.R.S. §9-463.05(C).

5. Effect of Imposition of Development Fees in a Community Facilities District. In calculating and imposing a Development Fee applicable to land in a community facilities district established under Arizona Revised Statutes, Title 48, Chapter 4, Article 6, the City shall take into account all public infrastructure provided by the district and capital costs paid by the district for necessary public services and facilities and shall not assess a portion of the Development Fee otherwise calculated to be due that would duplicate the infrastructure provided by the district or the costs imposed by the district on New Development.

**Article 17-4 Procedures for Imposition, Calculation and Collection of
Development Fees**

A. In General. The City shall calculate the Development Fees due and owing for any Applicant at the time of the issuance of a building permit. The Applicant shall pay the Development Fees prior to and as a condition of the issuance of a building permit. The City's actions established in this Section are to be performed by the Director of the City's Development Services Department or equivalent, or his or her designee, unless specifically stated otherwise.

B. Calculation.

1. Upon receipt of an application for a building permit, the City shall determine (a) whether the permit is for a residential or non-residential use, (b) the specific category (type) of residential or non-residential development, if applicable, (c) if residential, the number of new Dwelling Units, and (d) if non-residential, the number of new or additional square feet of gross floor area (rounded up to the nearest square foot) and the proposed use of the facility.

2. Upon receipt of an application for a building permit relating to an existing facility, the City shall determine whether the permit will result in a change in use. In such cases, the Development Fee due shall be based only on the incremental increase in the Development Fee(s) for the additional Public Facilities needed to accommodate the change in use.

3. After making the determinations in this Paragraph, the City shall calculate the total demand for the Public Facility added by the New Development for each Public Facility category for which a Development Fee is being imposed and calculate the applicable total Development Fee by multiplying the demand added by the New Development by the amount of the applicable Development Fee per unit of development, incorporating any applicable offset if set forth in the particular Development Fee calculation methodology.

4. If the type of land use proposed for New Development is not expressly listed in the particular Development Fee schedule, the City shall, at its option and in its discretion, determine the basis used to calculate the Development Fee(s) by:

DEVELOPMENT FEES CODE

- a. Identifying the most similar land use type listed and calculate the Development Fee based on the Development Fee for that land use; or
- b. Identifying the broader land use category within which the specified land use would apply and calculate the Development Fee based on the Development Fee for that land use category; or
- c. Reference to an independent impact analysis for Development Fee calculation. If this option is chosen, the following shall apply:
 - (i) The Applicant shall be responsible, at its sole expense, for preparing the independent impact analysis, which shall be reviewed for approval by the Director of the Development Services Department, the Finance Director, the City Engineer, and the City Manager prior to the City's notification pursuant to Paragraph iii of this subparagraph.
 - (ii) The independent impact analysis shall measure the impact that the proposed New Development will have on the particular Public Facility at issue, and shall be based on the same methodologies used in the Development Fee calculation methodology report, and shall be supported by professionally acceptable data and assumptions.
 - (iii) After review of the independent impact analysis submitted by the Applicant, the Director of the Development Services Department shall accept or reject the analysis and provide written notice to the Applicant of its decision on a form provided for such purpose within thirty (30) days of the submission of the completed independent impact analysis. If the independent impact analysis is rejected, the written notice shall provide an explanation of the insufficiencies of the analysis.
 - (iv) The final decision of the Director of the Development Services Department may be appealed pursuant this Article.

5. An Applicant may request a *non-binding* estimate of Development Fees due for a particular New Development at any time by filing a request on a form provided for such purpose by the Development Services Department, or in writing if that department has not developed or does not wish to utilize such a form. The Applicant must acknowledge that the estimate may be subject to change when a formal application for a building permit for New Development is made. Such non-binding estimate is solely for the benefit and convenience of the prospective Applicant and shall in no way bind the City nor preclude it from making amendments or revisions to any provisions of this Article, the specific Development Fees or the Development Fee schedules.

DEVELOPMENT FEES CODE

6. The calculation of Development Fees due from a Multiple-Use New Development shall be based upon the aggregated demand for each Public Facility generated by each land use type in the New Development.

7. The calculation of Development Fees due from a phased New Development shall be based upon the demand generated by each specific land use within the phase of development for which a separate building permit is requested.

8. Development Fees shall be calculated based on the Development Fee amount in effect at the time of application for a building permit.

C. Offsets. The City Manager, or his or her designee, shall perform the actions of the City in accordance with this Paragraph unless specifically stated otherwise.

1. Offsets against the amount of a Development Fee due from a New Development shall be provided for, among other things, contributions made in cash, or by dedication of land (if accepted or required by the City) or by actual construction of all or part of a Public Facility by the affected property owner for Public Facilities meeting or exceeding the demand generated by the New Development and the contribution is determined by the City to be a reasonable substitute for the cost of Public Facilities which are included in the particular Development Fee calculation methodology.

2. The amount of the excess contribution shall be determined by the City upon its receipt of a written application requesting an offset; provided, however, that (a) the City will make no reimbursement for excess contributions unless and until the particular Public Facility fund has sufficient revenue to make the reimbursement without jeopardizing the continuity of the City's capital improvements program and (b) the excess contribution may not be transferred or credited to any other type of Development Fees calculated to be due from that development for other type of Public Facilities. The determination of the eligibility for and the amount of the credit shall be made by the City on a form provided for such purposes. If the Applicant contends that any aspect of the City's decision constitutes an abuse of discretion, the Applicant shall be entitled to appeal pursuant to this Article.

3. No offset shall be allowed unless the City has approved the contribution or expenditure before it is or was made.

4. Offsets for dedication of land or provision of Public Facilities shall be applicable only as to Development Fees imposed for the same types of Public Facilities which are proposed to be dedicated or provided. Even if the value of the dedication of land or provision of a Public Facility exceeds the Development Fee due for the type of Public Facility, the excess value may not be transferred to Development Fees calculated to be due from the Applicant for other types of Public Facilities for which Development Fees may be imposed. Offsets may, however, be transferred to the same Applicant or to other Applicants for New Development which are proposed within the final approved platted area of the same development and for the same type of Public Facility.

DEVELOPMENT FEES CODE

D. Collection. The City shall collect all applicable Development Fees at the time of issuance of a building permit and shall issue a receipt to the Applicant for such payment unless:

1. The Applicant is determined to be entitled to a full offset; or
2. The Applicant has been determined to be not subject to the payment of a Development Fee; or
3. The Applicant has filed an appeal protesting the imposition or calculation of the Development Fee and a bond or other surety in the amount of the Development Fee, as calculated by the City and approved by the Finance Director and City Attorney, has been posted with the City.

The City shall collect a Development Fee at the time of issuance of a building permit even if Development Fees were paid by the Applicant at an earlier time in the development permit or approval process if the amount of the Development Fees have increased since such prior approval. In such case, the Applicant shall only be liable for the difference between the Development Fees paid earlier and those in effect at the time of issuance of the subsequent building permit.

E. Establishment of Development Fee Accounts; Appropriation of Development Fee Funds; And Refunds.

1. Development Fee Accounts. A Development Fee account shall be established by the City for each category of Public Facilities for which Development Fees are imposed. Such account shall clearly identify the category, account, or fund for which the Development Fee has been imposed. All Development Fees collected by the City shall be deposited into the appropriate Development Fee account or sub-account, which shall be interest bearing. All interest earned on monies deposited to such account shall be credited to and shall be considered funds of the account. The funds of each such account shall be capable of being accounted for separately from all other City funds, over time. The City shall establish and implement necessary accounting controls to ensure that the Development Fee funds are properly deposited, accounted for and appropriated in accordance with this Development Fees Code, A.R.S. §9-463.05 and any other applicable legal requirements.

2. Appropriation of Development Fee Funds.

- a. In General. Development Fee funds may be appropriated for Public Facilities, for Public Facility expenditures as defined herein and for the payment of principal, interest and other financing costs on contracts, bonds, notes or other obligations issued by or on behalf of the City or other applicable local governmental entities to finance such Public Facilities and Public Facility expenditures. All appropriations from Development Fee accounts shall be detailed as required by and filed within the Finance Department.

DEVELOPMENT FEES CODE

- b. Restrictions on Appropriations. Development Fees shall be appropriated only (a) for the particular Public Facility for which they were imposed, calculated and collected; and (b) within ten (10) years of the beginning of the Fiscal Year immediately succeeding the date of collection, unless such time period is extended as provided herein. Development Fees shall not be appropriated for funding maintenance or repair of Public Facilities nor for operational or personnel expenses associated with the provision of the Public Facility.
 - c. Appropriation of Development Fee Funds Beyond Ten (10) Years of Collection. Notwithstanding the preceding subparagraph, Development Fee funds may be appropriated beyond ten (10) years from the beginning of the Fiscal Year immediately succeeding the date of collection if the appropriation is for a Public Facility which requires more than ten (10) years to plan, design and construct, and the demand for the Public Facility is generated in whole or in part by the New Development, or if the Public Facility will actually serve the New Development. Such appropriations shall be documented by the City.
- 3. Procedure for Appropriation of Development Fee Funds.
 - a. The City shall each year identify Public Facility projects anticipated to be funded in whole or in part with Development Fees. The Public Facility recommendations shall be based upon the Development Fee annual review as set forth herein and such other information as may be relevant, and may be part of the City's annual budget and capital improvements programming process.
 - b. The recommendations shall be consistent with the provisions of this Article, the particular Public Facility Development Fee Ordinances, A.R.S. §9-463.05, or other applicable legal requirements and any guidelines adopted by the Mayor and Council.
 - c. The Mayor and Council may include Development Fee-funded Public Facilities in the City's annual budget and capital improvements program. If included, the description of the Public Facility shall specify the nature of the facility, the location of the Public Facility, the capacity to be added by the Public Facility, the service area of the Public Facility, the need/demand for the Public Facility and the anticipated timing of completion of the Public Facility.
 - d. The Mayor and Council may authorize Development Fee-funded Public Facilities at such other times as may be deemed necessary and appropriate by a majority vote of the Council.

DEVELOPMENT FEES CODE

- e. The Mayor and Council shall verify that adequate Development Fee funds are or will be available from the appropriate Development Fee account for the particular Public Facility.
4. Refunds.
- a. Eligibility for Refund.
 - (i) Expiration or Revocation of Building Permit. An Applicant who has paid a Development Fee for a New Development for which the necessary building permit has expired or for which the building permit has been revoked prior to construction shall be eligible to apply for a refund of Development Fees paid on a form provided by the City for such purposes.
 - (ii) Failure of City to Appropriate Development Fee Funds Within Time Limit. The current property owner may apply for a refund of Development Fees paid by an Applicant if the City has failed to appropriate the Development Fees collected from the Applicant within the ten-year time limit or any extension thereof established above. The refund application shall be made in or on such form provided by the City for such purposes.
 - (iii) Abandonment of Development After Initiation of Construction. An Applicant who has paid a Development Fee for a New Development for which a building permit has been issued and pursuant to which construction has been initiated, but which construction is abandoned prior to completion and issuance of a certificate of occupancy, shall be eligible for a refund if, and only if, the uncompleted building is completely demolished pursuant to a proper demolition permit.
 - (iv) A five percent (5%) administrative fee, but not to exceed two hundred dollars (\$200.00), shall be deducted from the amount of any refund granted and shall be retained by the City in the appropriate Development Fee account to help defray the administrative expenses associated with the processing of a refund application.
 - (v) Refunds shall be made only to the current owner of property on which the New Development was proposed or occurred. If more than one owner owns property which paid the Development Fees the request for refunds shall contain a copy of the conveyance documents wherein the proportionate ownership shares are set forth and the refunds shall be issues in accordance with the ownership shares of the conveyance documents. Any party obtaining a refund from the City shall confirm current ownership and entitlement to this

DEVELOPMENT FEES CODE

refund under oath and shall defend and indemnify the City from any claims by any other party claiming a right to the refund for the same New Development.

b. Processing of Applications for a Refund. Applications for a refund shall be made in or on a form provided by the City for such purposes and shall include all information required herein, as appropriate. Upon receipt of a complete application for a refund, the City shall review the application and documentary evidence submitted by the Applicant as well as such other information and evidence as may be deemed relevant, and make a determination as to whether a refund is due. Refunds by direct payment shall be made following an affirmative determination by the City.

c. Applications for refunds due to abandonment of a New Development prior to completion shall be made in or on forms provided by the City and shall be made no later than sixty (60) days following expiration or revocation of the building permit. The Applicant shall submit (1) evidence that the Applicant is the property owner or the duly designated agent of the property owner, (2) the amount of the Development Fees paid by Public Facilities category and receipts evidencing such payments, and (3) documentation evidencing the expiration or revocation of the building permit or approval of demolition of the structure pursuant to a valid City-issued demolition permit. Failure to apply for a refund within sixty (60) days following expiration or revocation of the building permit or demolition of the structure shall constitute a waiver of entitlement to a refund. No interest shall be paid by the City in calculating the amount of any refunds.

d. Applications for refunds due to the failure of the City to appropriate Development Fees collected from the Applicant within the time limits established herein shall be made in or on forms provided by the City and shall be made no later than one (1) year following the expiration of such time limit. The Applicant shall submit (1) evidence that the Applicant is the property owner or the duly designated agent of the property owner, (2) the amount of the Development Fees paid by Public Facility category and receipts evidencing such payments, and (3) a description and documentation of the City's failure to appropriate Development Fee funds for relevant Public Facilities.

e. The City may, at its option, make refunds of Development Fees by direct payment, by offsetting such refunds against other Development Fees due for the same category of Public Facilities for New Development on the same property, or by other means subject to agreement with the property owner.

DEVELOPMENT FEES CODE

F. Appeals.

1. An appeal from any decision of a City official pursuant to this Development Fees Code shall be made to the Mayor and Council by filing a written appeal pursuant to the appropriate City form, if any, with the City Clerk within thirty (30) days following the decision which is being appealed; provided, however, that if the notice of appeal is accompanied by a cash bond or letter of credit in a form satisfactory to the Finance Director and the City Attorney in an amount equal to the Development Fee calculated to be due, a building permit may be issued to the New Development. The filing of an appeal shall not stay the imposition or the collection of the Development Fee as calculated by the City unless a cash bond or other sufficient surety has been provided.

2. The burden of proof shall be on the appellant to demonstrate that the decision of the City is erroneous pursuant to the applicable legal standard.

3. All appeals shall detail the specific grounds therefor and all other relevant information and shall be filed in such form as requested by the City for such purposes.

G. Exemptions/Waivers.

1. **Standard for Exemption.** The Mayor and Council may, in any case where it deems such action to serve as an economic development incentive and is in the best interest of the City, waive the application of any Development Fee pursuant to this Paragraph G.

2. **Filing of Application.** Petitions for exemptions to the application of the provisions of this Development Fees Code or waivers from specific Development Fees shall be filed with the Mayor and Council in such form as requested by the City.

3. **Effect of Grant of Exemption/Waiver.** Except as otherwise set forth in this Development Fees Code, if the Mayor and Council grants an exemption or waiver, in whole or in part, of Development Fees otherwise due, the amount of the Development Fees so waived or exempted shall be provided by the City from non-Development Fee funds, and such funds shall be deposited to the appropriate Development Fee account within a reasonable period of time consistent with the applicable City capital improvements program. Notwithstanding this requirement, however, the City Council may, by Resolution, waive the City's reimbursement obligation for New Development in a designated Infill Overlay Zone or Redevelopment Area as established by the City Code or a City Ordinance.

4. **Development Agreements.** Nothing herein shall be deemed to limit in any manner the City's authority or ability to enter into Development Agreements pursuant to A.R.S. §9-500.05 with Applicants for New Development who may provide for dedication of land, payments in lieu of Development Fees, or actual infrastructure improvements. Such development agreements may allow offsets against Development Fees for contributions made or to be made in the future in cash, or by taxes or assessments or dedication of land or by actual construction of all or part of a Public Facility by the affected property owner.

DEVELOPMENT FEES CODE

Article 17-5 General Government Development Fee

A. All new residential and non-residential development within the City of Maricopa shall be subject to the payment of a General Government Development Fee payable at the time of building permit issuance by the City, pursuant to the terms and condition of this Article and in the amount as set forth in this Article. The General Government Development Fee shall be:

<u>Residential Development</u>	<u>Per Dwelling Unit</u>
Single Family Detached	\$674

<u>Non-Residential Development</u>	<u>Per Square Foot</u>
Commercial/Shopping Center 25,000 square feet or less	\$0.79
Commercial/Shopping Center 25,001 - 50,000 square feet	\$0.69
Commercial/Shopping Center 50,001 - 100,000 square feet	\$0.60
Commercial/Shopping Center 100,001 - 200,000 square feet	\$0.53
Commercial/Shopping Center over 200,000 square feet	\$0.48
Office/Institutional 10,000 square feet or less	\$1.05
Office/Institutional 10,001 - 25,000 square feet	\$0.96
Office/Institutional 25,001 - 50,000 square feet	\$0.91
Office/Institutional 50,001 - 100,000 square feet	\$0.86
Office/Institutional over 100,000 square feet	\$0.81
Business Park	\$0.76
Light Industrial	\$0.55
Warehousing	\$0.31
Manufacturing	\$0.43

B. Inflation Adjustments to Development Fee.

1. Beginning March 1, 2006, on or before March 1st of each year in which the General Government Development Fee is in effect, the City Manager, or his or her designee, shall calculate and present to the City Council an Inflation Adjustment Factor which shall be applied to determine the inflation-adjusted General Government Development Fee on the next Adjustment Date, as defined in subsection 2 of this Paragraph B. The Inflationary Index Factor shall be the fraction whose numerator is the index figure stated as the Construction Costs Index as published by Engineering News Record (ENR) for the month of January immediately preceding the Adjustment Date and whose denominator is the Construction Costs Index in effect on January 1, 2006, in the case of the first Adjustment Date, or the Construction Costs Index used for the last Adjustment Date, in the case of all adjustments after the first Adjustment Date.

2. On July 1, 2006, and on July 1st of each year thereafter in which the General Government Development Fee is in effect (hereinafter the "Adjustment Date"), the amount of the inflation-adjusted Development Fee per Dwelling Unit and per square foot of gross floor area of non-residential development, shall be automatically adjusted to account for inflationary increases by multiplying the then existing inflation-adjusted General Government Development Fee by the Inflationary Index Factor as defined in Paragraph B(1) above.

DEVELOPMENT FEES CODE

Article 17-6

Library Development Fee

A. All new residential development within the City of Maricopa shall be subject to the payment of a Library Development Fee payable at the time of building permit issuance by the City, pursuant to the terms and condition of this Article and in the amount as set forth in this Article. The Library Development Fee shall be:

<u>Residential Development</u>	<u>Per Dwelling Unit</u>
Single Family Detached	\$436

B. Inflation Adjustments to Development Fee.

1. Beginning March 1, 2006, on or before March 1st of each year in which the Library Development Fee is in effect, the City Manager, or his or her designee, shall calculate and present to the City Council an Inflation Adjustment Factor which shall be applied to determine the inflation-adjusted Library Development Fee on the next Adjustment Date, as defined in subsection 2 of this Paragraph B. The Inflationary Index Factor shall be the fraction whose numerator is the index figure stated as the Construction Costs Index as published by Engineering News Record (ENR) for the month of January immediately preceding the Adjustment Date and whose denominator is the Construction Costs Index in effect on January 1, 2006, in the case of the first Adjustment Date, or the Construction Costs Index used for the last Adjustment Date, in the case of all adjustments after the first Adjustment Date.

2. On July 1, 2006, and on July 1st of each year thereafter in which the Library Development Fee is in effect (hereinafter the "Adjustment Date"), the amount of the inflation-adjusted Development Fee per Dwelling Unit shall be automatically adjusted to account for inflationary increases by multiplying the then existing inflation-adjusted Library Development Fee by the Inflationary Index Factor as defined in Paragraph B(1) above.

Article 17-7 Parks and Recreation Development Fee

A. All new residential development within the City of Maricopa shall be subject to the payment of a Parks and Recreation Development Fee payable at the time of building permit issuance by the City, pursuant to the terms and condition of this Article and in the amount as set forth in this Article. The Parks and Recreation Development Fee shall be:

<u>Residential Development</u>	<u>Per Dwelling Unit</u>
Single Family Detached	\$303

B. Inflation Adjustments to Development Fee.

1. Beginning March 1, 2006, on or before March 1st of each year in which the Parks and Recreation Development Fee is in effect, the City Manager, or his or her designee, shall calculate and present to the City Council an Inflation Adjustment Factor which shall be applied to determine the inflation-adjusted Parks and Recreation Development Fee on the next Adjustment

DEVELOPMENT FEES CODE

Date, as defined in subsection 2 of this Paragraph B. The Inflationary Index Factor shall be the fraction whose numerator is the index figure stated as the Construction Costs Index as published by Engineering News Record (ENR) for the month of January immediately preceding the Adjustment Date and whose denominator is the Construction Costs Index in effect on January 1, 2006, in the case of the first Adjustment Date, or the Construction Costs Index used for the last Adjustment Date, in the case of all adjustments after the first Adjustment Date.

2. On July 1, 2006, and on July 1st of each year thereafter in which the Parks and Recreation Development Fee is in effect (hereinafter the "Adjustment Date"), the amount of the inflation-adjusted Development Fee per Dwelling Unit shall be automatically adjusted to account for inflationary increases by multiplying the then existing inflation-adjusted Parks and Recreation Development Fee by the Inflationary Index Factor as defined in Paragraph B(1) above.

Article 17-8 Public Safety Fee

A. All new residential and non-residential development within the City of Maricopa shall be subject to the payment of a Public Safety Development Fee payable at the time of building permit issuance by the City, pursuant to the terms and condition of this Article and in the amount as set forth in this Article. The Public Safety Development Fee shall be:

<u>Residential Development</u>	<u>Per Dwelling Unit</u>
Single Family Detached	\$140

<u>Non-Residential Development</u>	<u>Per Square Foot</u>
Commercial/Shopping Center 25,000 square feet or less	\$0.35
Commercial/Shopping Center 25,001 - 50,000 square feet	\$0.32
Commercial/Shopping Center 50,001 - 100,000 square feet	\$0.28
Commercial/Shopping Center 100,001 - 200,000 square feet	\$0.24
Commercial/Shopping Center over 200,000 square feet	\$0.21
Office/Institutional 10,000 square feet or less	\$0.16
Office/Institutional 10,001 - 25,000 square feet	\$0.13
Office/Institutional 25,001 - 50,000 square feet	\$0.11
Office/Institutional 50,001 - 100,000 square feet	\$0.10
Office/Institutional over 100,000 square feet	\$0.08
Business Park	\$0.09
Light Industrial	\$0.05
Warehousing	\$0.04
Manufacturing	\$0.03

B. Inflation Adjustments to Development Fee.

1. Beginning March 1, 2006, on or before March 1st of each year in which the Public Safety Development Fee is in effect, the City Manager, or his or her designee, shall calculate and present to the City Council an Inflation Index Factor which shall be applied to determine the inflation-adjusted Public Safety Development Fee on the next Adjustment Date, as defined in

DEVELOPMENT FEES CODE

subsection 2 of this Paragraph B. The Inflationary Index Factor shall be the fraction whose numerator is the index figure stated as the Construction Costs Index as published by Engineering News Record (ENR) for the month of January immediately preceding the Adjustment Date and whose denominator is the Construction Costs Index in effect on January 1, 2006, in the case of the first Adjustment Date, or the Construction Costs Index used for the last Adjustment Date, in the case of all adjustments after the first Adjustment Date.

2. On July 1, 2006, and on July 1st of each year thereafter in which the Public Safety Development Fee is in effect (hereinafter the "Adjustment Date"), the amount of the inflation-adjusted Development Fee per Dwelling Unit and per square foot of gross floor area of non-residential development, shall be automatically adjusted to account for inflationary increases by multiplying the then existing inflation-adjusted Public Safety Development Fee by the Inflationary Index Factor as defined in Paragraph B(1) above.

Section 17-9 Transportation Development Fee

A. All new residential and non-residential development within the City of Maricopa shall be subject to the payment of a Transportation Development Fee payable at the time of building permit issuance by the City, pursuant to the terms and condition of this Article and in the amount as set forth in this Article. The Transportation Development Fee shall be:

<u>Residential Development</u>	<u>Per Dwelling Unit</u>
Single Family Detached	\$3,623

<u>Non-Residential Development</u>	<u>Per Square Foot</u>
Commercial/Shopping Center 25,000 square feet or less	\$9.20
Commercial/Shopping Center 25,001 - 50,000 square feet	\$8.53
Commercial/Shopping Center 50,001 - 100,000 square feet	\$7.47
Commercial/Shopping Center 100,001 - 200,000 square feet	\$6.46
Commercial/Shopping Center over 200,000 square feet	\$5.54
Office/Institutional 10,000 square feet or less	\$5.22
Office/Institutional 10,001 - 25,000 square feet	\$4.22
Office/Institutional 25,001 - 50,000 square feet	\$3.60
Office/Institutional 50,001 - 100,000 square feet	\$3.07
Office/Institutional over 100,000 square feet	\$2.61
Business Park	\$2.93
Light Industrial	\$1.60
Warehousing	\$1.14
Manufacturing	\$0.88

B. Inflation Adjustments to Development Fee.

1. Beginning March 1, 2006, on or before March 1st of each year in which the Transportation Development Fee is in effect, the City Manager, or his or her designee, shall calculate and present to the City Council an Inflation Adjustment Factor which shall be applied to

DEVELOPMENT FEES CODE

determine the Transportation Development Fee on the next Adjustment Date, as defined in subsection 2 of this Paragraph B. The Inflationary Index Factor shall be the fraction whose numerator is the index figure stated as the Construction Costs Index as published by Engineering News Record (ENR) for the month of January immediately preceding the Adjustment Date and whose denominator is the Construction Costs Index in effect on January 1, 2006, in the case of the first Adjustment Date, or the Construction Costs Index used for the last Adjustment Date, in the case of all adjustments after the first Adjustment Date.

2. On July 1, 2006, and on July 1st of each year thereafter in which the Transportation Development Fee is in effect (hereinafter the "Adjustment Date"), the amount of the inflation-adjusted Development Fee per Dwelling Unit and per square foot of gross floor area of non-residential development, shall be automatically adjusted to account for inflationary increases by multiplying the then existing inflation-adjusted Transportation Development Fee by the Inflationary Index Factor as defined in Paragraph B(1) above.

Article 17-10

Conflict

To the extent of any conflict between other City Ordinances and this Development Fees Code, this Development Fees Code shall be deemed to be controlling; provided, however, that this Development Fees Code is not intended to amend or repeal any existing City Ordinance, Resolution or regulation except as expressly set forth herein.

Article 17-11

Severability

If any section, subsection, sentence, clause, phrase or portion of this Development Fees Code is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.